

REMARKS

In a Communication dated December 11, 2002, the Office noted that this application failed to comply with the requirements of the sequence rules. Specifically, the Office noted that while the paper copy of the sequences contained only sequences 1-64, the CRF contains sequences 1-68.

It appears that applicants may have inadvertently submitted an incomplete paper copy of the sequence listing (missing the last two pages) when this divisional application was filed September 26, 2000. Applicants submit with this response a complete copy of the sequence listing containing sequences 1-68. Support for the 68 sequences recited in the sequence listing can be found in the originally-filed application.

Applicants declare that the computer readable form in this application is identical with that filed in application Serial No. 08/472,928, (hereinafter "the '928 application").¹ Therefore, applicants request, in accordance with 37 C.F.R. § 1.821(e), that the first-filed computer readable form filed in the '928 application be used as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant application. A paper copy of the Sequence Listing is attached hereto and has been inserted into the specification as set forth above. Applicants have also amended the specification and claims to comply with the requirements of 37 C.F.R. § 1.821(d).

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¹ The '928 application is a divisional application of U.S. Application S.N. 08/160,465, upon which applicants rely for the benefits provided in 35 U.S.C. § 120.

I hereby state that the content of the Sequence Listing and the computer-readable copies of the Sequence Listing submitted in accordance with 37 C.F.R. § 1.821 (c) and (e), respectively, are the same.

I further state that the submission, filed in accordance with 37 C.F.R. § 1.821 (g) herein, does not include new matter.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: January 7, 2003

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT PAPER

13

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132

Specifically, the paper copy of the sequences in the application contains sequences 1-64 only, while the CRF contains sequences 1-68. § 1.823 Provides that if the Sequence Listing is submitted on paper: The "Sequence Listing," setting forth the nucleotide and/or amino acid sequence and associated information in accordance with paragraph (b) of this section, must begin on a new page and must be titled "Sequence Listing." The pages of the "Sequence Listing" preferably should be numbered independently of the numbering of the remainder of the application.

APPLICANT IS GIVEN 30 days FROM THE DATE OF THIS LETTER WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 C.F.R. §§ 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 C.F.R. § 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 C.F.R. § 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ulrike Winkler whose telephone number is (703) 308-8294. The examiner can normally be reached on M-F 9 a.m. - 5p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached at (703) 308-4027. The fax number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Ulrike Winkler
12/4/02



Notice to Comply

Application No.	Applicant(s)
09/670,105	MONCANY ET AL.
Examiner	Art Unit
Ulrike Winkler, Ph.D.	1648

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- 7. Other:

Applicant Must Provide:

- An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

 Technical Assistance.....703-287-0200

 To Purchase PatentIn Software.....703-306-2600

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